From: Brian Allemana
To: Microsoft ATR
Date: 1/27/02 11:59am
Subject: Microsoft Settlement

As is the right of every U.S. citizen during the period of public commentary that is specified by the Tunney Act, I hereby submit my thoughts and opinions regarding the outcome of the anti-trust trial against Microsoft.

I am against the current settlement being offered between the U.S. Department of Justice and Microsoft Corporation. Based on professional study and experience, I believe Microsoft can and will find methods to circumvent this settlement for their own good without considering the impact on the general public. The settlement must be strengthened before I can accept it as a solution to Microsoft's illegal behavior.

The primordial soup of the personal computer industry began with technological hobbyists sharing each other's ideas for the purposes of enhancing that technology as well as purely satisfying their human curiosities. The Internet, once it became public, took off like no other technological development before it, and it is based upon open, non-proprietary technologies that are both robust and exist solely to serve the public good. Likewise, the PC revolution could not have taken off as it did without IBM opening its hardware specifications for the world to understand and enhance. Clearly, technology thrives in an open, competitive marketplace, not a marketplace dominated by a single company.

Microsoft has strived, more aggressively than anyone else, to stifle the competitive nature of the software technology world for their own benefit. Judge Penfield Jackson's Findings of Fact make this point perfectly clear. Companies such as Apple, Compaq, Netscape, Sun, even IBM and Intel, are all cited as having suffered business losses due to Microsoft's anti-competitive behavior. It is clear that Microsoft can no longer be trusted to run their business, particularly a monopoly business, in a responsible manner.

It would be irresponsible of us, as a democratic nation, to allow Microsoft to continue striving for complete market dominance without any substantial checks and balances in place. The current settlement being offered does not provide the fulcrum needed to support such balances. It barely takes a step in the right direction, and that step will prove meaningless once Microsoft begins taking advantage of the enormous loopholes within the settlement.

While the settlement, in spirit, attempts to remedy the complaints originally filed by the U.S. Department of Justice, it does not, on any realistic level, restrict Microsoft from continuing anti-competitive practices. For example, the settlement only specifies a few products

that Microsoft must open to competition, and these are not their most important products nor the products most likely to be wielded in their continuation of market control (e.g., it specifies Outlook Express and Microsoft Java, but not Outlook or Microsoft C#). The settlement also fails to encourage competition in the operating system marketplace by not fully specifying that Microsoft must not artificially raise the barriers to entry to their operating system protocols, or requiring Microsoft to publish the specifications when the barriers are raised. This allows Microsoft to grossly inhibit developers of competitive operating systems and/or applications from having the same access to system protocols as Microsoft developed applications (one of the major points of contention within the original DoJ complaint).

Judge Jackson's Findings of Fact outline anti-competitive behavior that the proposed settlement barely begins to address. There is no requirement for Microsoft to open their file formats, minimal requirements to open their networking protocols, and licensing fees are not properly regulated. There is actually room within the settlement for Microsoft to hinder competition by giving unrealistic requirements to competing bodies that try to implement available Microsoft protocols (such as requiring a competitor to meet unspecified technical requirements seven months prior to a "beta test version of [the] new Windows Operating System Product" [section III H.], which, at Microsoft's discretion, may be too soon for a competing developer to implement these protocols).

Overall, it is clear that this settlement falls short of serving the public interest. There are too many loopholes and freedoms given to Microsoft, who, by the course of their own actions, and as determined by a federal court and upheld on appeal, has lost their right to these freedoms by violating federal law.

I hope you will take my thoughts and opinions, as well as the thousands of other concerned citizens who have voiced their points of view, into careful consideration prior to rendering a settlement decision.

Thank you for reading. This message will be duplicated via fax.

Sincerely,
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